

**BOARD OF ADJUSTMENT, PANEL B
PUBLIC HEARING MINUTES
DALLAS CITY HALL L1FN AUDITORIUM
WEDNESDAY, JUNE 21, 2017**

MEMBERS PRESENT AT BRIEFING: Joe Carreon, regular member, Marla Biekman, regular member, Wini Cannon, regular member and Gary Sibley, alternate member

MEMBERS ABSENT FROM BRIEFING: Scott Hounsel, Vice-Chair, and Matt Shouse, regular member

MEMBERS PRESENT AT HEARING: Joe Carreon, regular member, Marla Biekman, regular member, Wini Cannon, regular member and Gary Sibley, alternate member

MEMBERS ABSENT FROM HEARING: Scott Hounsel, Vice-Chair, and Matt Shouse, regular member

STAFF PRESENT AT BRIEFING: Steve Long, Board Administrator, Kanesia Williams, Asst. City Attorney, Todd Duerksen, Development Code Specialist, Phil Erwin, Chief Arborist, Donna Moorman, Chief Planner, and Trena Law, Board Secretary

STAFF PRESENT AT HEARING: Steve Long, Board Administrator, Kanesia Williams, Asst. City Attorney, Todd Duerksen, Development Code Specialist, Phil Erwin, Chief Arborist, Donna Moorman, Chief Planner, and Trena Law, Board Secretary

11:10 A.M. The Board of Adjustment staff conducted a briefing on the Board of Adjustment's **June 21, 2017 docket.**

1:02 P.M.
The Chairperson stated that no action of the Board of Adjustment shall set a precedent. Each case must be decided upon its own merits and circumstances, unless otherwise indicated, each use is presumed to be a legal use. Each appeal must necessarily stand upon the facts and testimony presented before the Board of Adjustment at this public hearing, as well as the Board's inspection of the property.

MISCELLANEOUS ITEM NO. 1

To approve the Board of Adjustment Panel B May 17, 2017, public hearing minutes.

BOARD OF ADJUSTMENT ACTION: JUNE 21, 2017

MOTION: None

The minutes were approved.

FILE NUMBER: BDA167-066(SL)

BUILDING OFFICIAL’S REPORT: Application of Curtis Shaw for a special exception to the off-street parking regulations at 2646 Rodney Lane. This property is more fully described as Lot 3A, Block 1/6606, and is zoned IR, which requires off-street parking to be provided. The applicant proposes to construct and/or maintain a structure for an industrial (inside) use, and provide 69 of the required 114 parking spaces, which will require a 45 space special exception to the off-street parking regulations.

LOCATION: 2646 Rodney Lane

APPLICANT: Curtis Shaw

REQUEST:

A request for a special exception to the off-street parking regulations of 45 spaces is made to obtain a Certificate of Occupancy/maintain an existing approximately 68,500 square foot industrial (inside) use (Arrow-Magnolia International, Inc), and provide 69 (or 60 percent) of the 114 required off-street parking spaces.

STANDARD FOR A SPECIAL EXCEPTION TO THE OFF-STREET PARKING REGULATIONS:

- 1) The Board of Adjustment may grant a special exception to authorize a reduction in the number of off-street parking spaces required under this article if the board finds, after a public hearing, that the parking demand generated by the use does not warrant the number of off-street parking spaces required, and the special exception would not create a traffic hazard or increase traffic congestion on adjacent and nearby streets. The maximum reduction authorized by this section is 25 percent or one space, whichever is greater, minus the number of parking spaces currently not provided due to delta credits, as defined in Section 51A-4.704(b)(A). For the commercial amusement (inside) use and the industrial (inside) use, the maximum reduction authorized by this section is 75 percent or one space, whichever is greater, minus the number of parking spaces currently not provided due to delta credits, as defined in Section 51A-4.704(b)(4)(A). For the office use, the maximum reduction authorized by this section is 35 percent or one space, whichever is

greater, minus the number of parking spaces currently not provided due to delta credits, as defined in Section 51A-4.704(b)(4)(A). Applicants may seek a special exception to the parking requirements under this section and an administrative parking reduction under Section 51A-4.313. The greater reduction will apply, but the reduction may not be combined.

- 2) In determining whether to grant a special exception, the board shall consider the following factors:
 - (A) The extent to which the parking spaces provided will be remote, shared, or packed parking.
 - (B) The parking demand and trip generation characteristics of all uses for which the special exception is requested.
 - (C) Whether or not the subject property or any property in the general area is part of a modified delta overlay district.
 - (D) The current and probable future capacities of adjacent and nearby streets based on the city's thoroughfare plan.
 - (E) The availability of public transit and the likelihood of its use.
 - (F) The feasibility of parking mitigation measures and the likelihood of their effectiveness.
- 3) In granting a special exception, the board shall specify the uses to which the special exception applies. A special exception granted by the board for a particular use automatically and immediately terminates if and when that use is changed or discontinued.
- 4) In granting a special exception, the board may:
 - (A) Establish a termination date for the special exception or; otherwise provide for the reassessment of conditions after a specified period of time;
 - (B) Impose restrictions on access to or from the subject property; or
 - (C) Impose any other reasonable conditions that would have the effect of improving traffic safety or lessening congestion on the streets.
- 5) The board shall not grant a special exception to reduce the number of off-street parking spaces required in an ordinance granting or amending a specific use permit.
- 6) The board shall not grant a special exception to reduce the number of off-street parking spaces expressly required in the text or development plan of an ordinance establishing or amending regulations governing a specific planned development district. This prohibition does not apply when:
 - (A) the ordinance does not expressly specify a minimum number of spaces, but instead simply makes references to the existing off-street parking regulations in Chapter 51 or this chapter; or
 - (B) the regulations governing that specific district expressly authorize the board to grant the special exception.

STAFF RECOMMENDATION:

Approval, subject to the following condition:

- The special exception of 45 spaces shall automatically and immediately terminate if and when the industrial (inside) use is changed or discontinued.

Rationale:

- The Sustainable Development Department Assistant Director of Engineering has indicated that he has no objections to the applicant’s request.

BACKGROUND INFORMATION:

Zoning:

- Site: IR (Industrial/research)
- North: IR (Industrial/research)
- South: IR (Industrial/research)
- East: IR (Industrial/research)
- West: IR (Industrial/research)

Land Use:

The subject site is developed with an existing approximately 68,500 square foot industrial (inside) use (Arrow-Magnolia International, Inc). The areas to the north, south, east, and west are developed with industrial/warehouse/office uses.

Zoning/BDA History:

There has not been any recent related board or zoning cases recorded either on or in the immediate vicinity of the subject site.

GENERAL FACTS/STAFF ANALYSIS:

- This request for a special exception to the off-street parking regulations of 45 spaces focuses on obtaining a Certificate of Occupancy/maintaining an existing approximately 68,500 square foot industrial (inside) use (Arrow-Magnolia International, Inc), and providing 69 (or 60 percent) of the 114 required off-street parking spaces.
- The Dallas Development Code requires the following off-street parking requirement:
 - Industrial (inside) use: 1 space per 600 square feet of floor area.
- The submitted site plan denotes an existing building with 68,560 square feet of area, 69 “cars provided”, and 114 “cars required.”
- The applicant has submitted a document that states among other things that applicant became aware of the fact that the site was not parked and had not been per code since a 1999 expansion was made of the use that had been on the site since the 1970’s when a fire department inspection was conducted on the property in 2011; and that the employee base has varied for the company/use on the site over the past 10 years from 40-50 people. (The applicant proposes to provide 69 of the required 114 off-street parking spaces).
- The Sustainable Development Department Assistant Director of Engineering has indicated that he has no objections to the request.
- The applicant has the burden of proof in establishing the following:

- The parking demand generated by the “industrial (inside) use” use on the site does not warrant the number of off-street parking spaces required, and
- The special exception of 45 spaces (or a 40 percent reduction of the required off-street parking) would not create a traffic hazard or increase traffic congestion on adjacent and nearby streets.
- If the Board were to grant this request, and impose the condition that the special exception of 45 spaces shall automatically and immediately terminate if and when the industrial (inside) use is changed or discontinued, the applicant would be able to obtain a Certificate of Occupancy/maintain the existing approximately 68,500 square foot industrial (inside) use, and provide 69 (or 60 percent) of the 114 required off-street parking spaces.

Timeline:

- March 28, 2017: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.
- May 9, 2017: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.
- May 9, 2017: The Board Administrator emailed the applicant the following information:
- a copy of the application materials including the Building Official’s report on the application;
 - an attachment that provided the public hearing date and panel that will consider the application; the May 31st deadline to submit additional evidence for staff to factor into their analysis; and the June 9th deadline to submit additional evidence to be incorporated into the Board’s docket materials;
 - the criteria/standard that the board will use in their decision to approve or deny the request; and
 - the Board of Adjustment Working Rules of Procedure pertaining to “documentary evidence.”
- June 6, 2017: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for June public hearings. Review team members in attendance included: the Sustainable Development and Construction Assistant Director of Engineering, the Board of Adjustment Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, the Sustainable Development and Construction Department Senior Planner, and the Assistant City Attorney to the Board.
- June 9, 2017: The Sustainable Development Department Assistant Director of Engineering submitted a review comment sheet marked “Has no objections”.

BOARD OF ADJUSTMENT ACTION JUNE 21, 2017

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: Beikman

I move to grant that the Board of Adjustment grant application **BDA 167-066(SL)** listed on the uncontested docket because it appears, from our evaluation of the property and all relevant evidence, that the application satisfies all the requirements of the Dallas Development Code or appropriate PD as applicable, and are consistent with its general purpose and intent of the Code or PD. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

- The special exception of 45 spaces shall automatically and immediately terminate if and when the industrial (inside) use is changed or discontinued.

SECONDED: Cannon

AYES: 4 – Carreon, Beikman, Cannon, Sibley

NAYS: 0

MOTION PASSED 4– 0 (unanimously)

FILE NUMBER: BDA167-074(SL)

BUILDING OFFICIAL’S REPORT: Application of Jarrett Ouellette for special exceptions to the visual obstruction regulations at 1212 S. Riverfront Boulevard. This property is more fully described as Lot 17 & 18, Block 69/7338, and is zoned PD 784, which requires a 20 foot visibility triangle at driveway approaches. The applicant proposes to locate and maintain items in required visibility triangles, which will require special exceptions to the visual obstruction regulations

LOCATION: 1212 S. Riverfront Boulevard

APPLICANT: Jarrett Ouellette

REQUESTS:

Requests for special exceptions to the visual obstruction regulations are made to locate and maintain portions of an 8’ high open metal post/picket fence/gate in two 20’ visibility triangles at the driveway into the site developed with a vacant structure being transitioned to a mixed use.

STANDARD FOR A SPECIAL EXCEPTION TO THE VISUAL OBSTRUCTION REGULATIONS:

The Board shall grant a special exception to the requirements of the visual obstruction regulations when, in the opinion of the Board, the item will not constitute a traffic hazard.

STAFF RECOMMENDATION:

Approval, subject to the following condition:

- Compliance with the submitted site plan/elevation is required.

Rationale:

- Staff concurred with the Sustainable Development Department Assistant Director of Engineering who has no objections to the requests with the condition imposed that the applicant comply with the submitted site plan/elevation that represents that the fence/gate in the visibility triangles is of open metal post/picket material.

BACKGROUND INFORMATION:

Zoning:

Site: PD 784 (Planned Development)
North: PD 784 (Planned Development)
South: PD 784 (Planned Development)
East: PD 784 (Planned Development)
West: PD 784 (Planned Development))

Land Use:

The subject site is developed with a vacant structure in the process of being transitioned to a mixed use. The areas to the north, south, east, and west are developed a mix of uses.

Zoning/BDA History:

There has not been any recent related board or zoning cases recorded either on or in the immediate vicinity of the subject site.

GENERAL FACTS/STAFF ANALYSIS:

- The requests for special exceptions to the visual obstruction regulations focus on locating and maintaining portions of an 8' high open metal post/picket fence/gate in two 20' visibility triangles at the driveway into the site developed with a vacant structure being transitioned to a mixed use.
- The Dallas Development Code states the following: A person shall not erect, place, or maintain a structure, berm, plant life or any other item on a lot if the item is:

- in a visibility triangle as defined in the Code (45-foot visibility triangles at street intersections, and 20 foot visibility triangles at drive approaches and at alleys on properties zoned single family); and
 - between two and a half and eight feet in height measured from the top of the adjacent street curb (or the grade of the portion on the street adjacent to the visibility triangle).
- A site plan/elevation has been submitted representing an 8' high open metal picket fence in the two, 20' visibility triangles at the driveway into the site.
 - The Sustainable Development Department Assistant Director of Engineering submitted a review comment sheet marked "Has no objections if certain conditions are met" with the following additional comment: "Fence must remain "wrought iron" type (open metal) so as not to block visibility".
 - The applicant has the burden of proof in establishing how granting the requests for special exceptions to the visual obstruction regulations to locate and maintain portions of an 8' high open metal post/picket fence/gate located in two 20' visibility triangles at the driveway into the site do not constitute a traffic hazard.
 - Granting these requests with the condition that the applicant complies with the submitted site plan/elevation would require the items in the visibility triangles to be limited to and maintained in the locations, height and materials as shown on this document.

Timeline:

- April 12, 2017: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- May 9, 2017: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.
- May 9, 2017: The Board Administrator emailed the applicant the following information:
- a copy of the application materials including the Building Official's report on the application;
 - an attachment that provided the public hearing date and panel that will consider the application; the May 31st deadline to submit additional evidence for staff to factor into their analysis; and the June 9th deadline to submit additional evidence to be incorporated into the Board's docket materials;
 - the criteria/standard that the board will use in their decision to approve or deny the request; and
 - the Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence."
- June 6, 2017: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for June public hearings. Review team members in attendance included: the Sustainable Development and Construction Assistant Director of Engineering, the Board of Adjustment Chief Planner, the Board

Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, the Sustainable Development and Construction Department Senior Planner, and the Assistant City Attorney to the Board.

June 9, 2017: The Sustainable Development Department Assistant Director of Engineering submitted a review comment sheet marked "Has no objections if certain conditions are met" with the following additional comment: "Fence must remain "wrought iron" type (open metal) so as not to block visibility".

BOARD OF ADJUSTMENT ACTION JUNE 21, 2017

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: Beikman

I move to grant that the Board of Adjustment grant application **BDA 167-074(SL)** listed on the uncontested docket because it appears, from our evaluation of the property and all relevant evidence, that the application satisfies all the requirements of the Dallas Development Code or appropriate PD as applicable, and are consistent with its general purpose and intent of the Code or PD. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

- Compliance with the submitted site plan/elevations is required.

SECONDED: Cannon

AYES: 4 – Carreon, Beikman, Cannon, Sibley

NAYS: 0

MOTION PASSED 4– 0 (unanimously)

FILE NUMBER: BDA167-075(SL)

BUILDING OFFICIAL’S REPORT: Application of Ed Hicks, Jr., represented by Matt Moore of Claymoore Engineering, Inc., for a special exception to the landscape regulations at 39690 LBJ Freeway/IH 20. This property is more fully described as being a 6.85 acre unplatted tract in Block A/7557, and is zoned RR, which requires mandatory landscaping. The applicant proposes to construct and/or maintain a structure and provide an alternate landscape plan, which will require a special exception to the landscape regulations.

LOCATION: 39690 LBJ Freeway/IH 20

**APPLICANT: Ed Hicks, Jr.
Represented by Matt Moore of Claymoore Engineering, Inc.**

REQUEST:

A request for a special exception to the landscape regulations is made to construct and maintain an addition to an existing vehicle display, sales or service use/structure (Clay Cooley Nissan), and not fully meet the landscape regulations, more specifically not fully provide the required number of street trees and design standards on the subject site.

STANDARD FOR A SPECIAL EXCEPTION TO THE LANDSCAPE AND TREE PRESERVATION REGULATIONS:

The board may grant a special exception to the landscape and tree preservation regulations of this article upon making a special finding from the evidence presented that:

- (1) strict compliance with the requirements of this article will unreasonably burden the use of the property;
- (2) the special exception will not adversely affect neighboring property; and
- (3) the requirements are not imposed by a site-specific landscape plan approved by the city plan commission or city council.

In determining whether to grant a special exception, the Board shall consider the following factors:

- the extent to which there is residential adjacency;
- the topography of the site;
- the extent to which landscaping exists for which no credit is given under this article; and
- the extent to which other existing or proposed amenities will compensate for the reduction of landscaping.

STAFF RECOMMENDATION:

Approval, subject to the following condition:

- Compliance with the submitted alternate landscape plan is required.

Rationale:

- The City of Dallas Chief Arborist recommends approval of the request concluding that strict compliance with the requirements of Article X for street trees will unreasonably burden the use of the property, and that the special exception will not adversely affect/negatively impact neighboring property. In making this conclusion, staff considered that the following facts:
 - The property was built and expanded prior to triggers to Article X landscape requirements being applicable to the property, and has maintained a vehicular sales use for that time.
 - The property has a 25' utility and drainage easement, and utility lines that run within the northern perimeter of the property adjacent to the frontage road which restricts the planting of street trees.
 - The TXDoT right-of-way along the property is also restrictive to new plantings.
 - All new building additions and improvements on the property are on the northern half of the property and do not expand to Stoneview Drive so site improvements are limited to the northern area.

BACKGROUND INFORMATION:

Zoning:

<u>Site:</u>	RR (Regional retail)
<u>North:</u>	PD 751 (Planned Development)
<u>South:</u>	IR (Industrial/research)
<u>East:</u>	RR (Regional retail)
<u>West:</u>	RR (Regional retail)

Land Use:

The subject site is developed with a vehicle display, sales or service use (Clay Cooley Nissan). The area to the north is LBJ Freeway; the areas to the east and west are developed with retail uses; and the area to the south is developed with office/warehouse use.

Zoning/BDA History:

There has not been any recent related board or zoning cases recorded either on or in the immediate vicinity of the subject site.

GENERAL FACTS/STAFF ANALYSIS:

- This request for a special exception to the landscape regulations focuses on constructing and maintaining an addition to an existing vehicle display, sales or service use/structure (Clay Cooley Nissan), and not fully meeting the landscape regulations, more specifically not fully providing the street tree and the design standard requirements on the subject site.
- The Dallas Development Code requires full compliance with the landscape regulations when nonpermeable coverage on a lot or tract is increased by more than 2,000 square feet, or when work on an application is made for a building permit for construction work that increases the number of stories in a building on the lot, or increases by more than 35 percent or 10,000 square feet, whichever is less, the combined floor areas of all buildings on the lot within a 24-month period.
- The City of Dallas Chief Arborist submitted a memo regarding the applicant's request (see Attachment A). The memo states the applicant is requesting a special exception to the landscape regulations of Article X, and that the proposed alternative landscape plan is deficient by not providing the required number of street trees (10.125(b)(4)) and by providing only one of two required design standards.
- The Chief Arborist's memo states the following with regard to "provisions":
 - The applicant is proposing an alternate landscape plan with 14 new large trees in the northern tier of the property in existing and new landscape areas. Ten additional small trees will also be added. A new row of screening shrubs will be placed along the northern perimeter of the lot to provide a soft green edge to the vehicle storage and surface parking lots. Aside from street trees and one design standard, the plan will comply with all other conditions of Article X.

- The Chief Arborist’s memo states the following with regard to “deficiency”:
 - The proposed plan is deficient of required nine street trees for the IH-20 frontage road and three trees for Stoneview Drive. No trees or other improvements are proposed along Stoneview Drive. No additional design standards are proposed.
- The Chief Arborist’s memo states the following with regard to “factors”:
 - The property was built and expanded prior to triggers to Article X landscape requirements being applicable to the property. It has maintained a vehicular sales use for that time. A 25-foot utility and drainage easement, and utility lines, run within the northern perimeter of the property adjacent to the frontage road which restricts the planting of street trees. The TXDoT right-of-way is also restrictive to new plantings. All new building additions and improvements are on the northern half of the property and do not expand to Stoneview Drive so site improvements are limited to the northern area
- The City of Dallas Chief Arborist recommends approval of the alternate landscape plan because the full requirements of Article X would place an unreasonable burden on the use of the property, and the special exception would not negatively impact neighboring properties.
- The applicant has the burden of proof in establishing the following:
 - Strict compliance with the requirements of the landscape regulations of the Dallas Development Code will unreasonably burden the use of the property; and the special exception will not adversely affect neighboring property.
- If the Board were to grant this request and impose the submitted alternate landscape plan as a condition to the request, the site would be provided exception from full compliance with the street tree and design standard requirements on the subject site.

Timeline:

- April 18, 2017: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.
- May 9, 2017: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.
- May 10, 2017: The Board Administrator emailed the applicant’s representative the following information:
 - an attachment that provided the public hearing date and panel that will consider the application; the May 31st deadline to submit additional evidence for staff to factor into their analysis; and the June 9th deadline to submit additional evidence to be incorporated into the Board’s docket materials;
 - the criteria/standard that the board will use in their decision to approve or deny the request; and
 - the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.
- June 6, 2017: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for June public

hearings. Review team members in attendance included: the Sustainable Development and Construction Assistant Director of Engineering, the Board of Adjustment Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, the Sustainable Development and Construction Department Senior Planner, and the Assistant City Attorney to the Board.

No review comment sheets were submitted in conjunction with this application.

June 9, 2017: The City of Dallas Chief Arborist submitted a memo regarding this request (see Attachment A).

BOARD OF ADJUSTMENT ACTION JUNE 21, 2017

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: **Beikman**

I move to grant that the Board of Adjustment grant application **BDA 167-075(SL)** listed on the uncontested docket because it appears, from our evaluation of the property and all relevant evidence, that the application satisfies all the requirements of the Dallas Development Code or appropriate PD as applicable, and are consistent with its general purpose and intent of the Code or PD. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

- Compliance with the submitted alternate landscape plan is required.

SECONDED: **Cannon**

AYES: 4 – Carreon, Beikman, Cannon, Sibley

NAYS: 0

MOTION PASSED 4– 0 (unanimously)

FILE NUMBER: BDA167-078(SL)

BUILDING OFFICIAL’S REPORT: Application of Siobahn Omlor for a special exception to the off-street parking regulations at 2006 Farrington Street. This property is more fully described as Lot 1 & 2, and part of Lot 3, Block 32/7891, and is zoned PD 621 (Subdistrict 1), which requires off-street parking to be provided. The applicant proposes to construct and/or maintain a structure for an industrial (inside) use, and provide 12 of the required 23 off-street parking spaces, which will require an 11 space special exception to the off-street parking regulations.

LOCATION: 2006 Farrington Street

APPLICANT: Siobahn Omlor

REQUEST:

A request for a special exception to the off-street parking regulations of 11 spaces is made to obtain a Certificate of Occupancy/maintain an existing approximately 13,500 square foot vacant structure with industrial (inside) use (Century Oak Foods), and provide 12 (or 52 percent) of the 23 required off-street parking spaces.

STANDARD FOR A SPECIAL EXCEPTION TO THE OFF-STREET PARKING REGULATIONS:

- 1) The Board of Adjustment may grant a special exception to authorize a reduction in the number of off-street parking spaces required under this article if the board finds, after a public hearing, that the parking demand generated by the use does not warrant the number of off-street parking spaces required, and the special exception would not create a traffic hazard or increase traffic congestion on adjacent and nearby streets. The maximum reduction authorized by this section is 25 percent or one space, whichever is greater, minus the number of parking spaces currently not provided due to delta credits, as defined in Section 51A-4.704(b)(A). For the commercial amusement (inside) use and the industrial (inside) use, the maximum reduction authorized by this section is 75 percent or one space, whichever is greater, minus the number of parking spaces currently not provided due to delta credits, as defined in Section 51A-4.704(b)(4)(A). For the office use, the maximum reduction authorized by this section is 35 percent or one space, whichever is greater, minus the number of parking spaces currently not provided due to delta credits, as defined in Section 51A-4.704(b)(4)(A). Applicants may seek a special exception to the parking requirements under this section and an administrative parking reduction under Section 51A-4.313. The greater reduction will apply, but the reduction may not be combined.
- 2) In determining whether to grant a special exception, the board shall consider the following factors:
 - (A) The extent to which the parking spaces provided will be remote, shared, or packed parking.
 - (B) The parking demand and trip generation characteristics of all uses for which the special exception is requested.
 - (C) Whether or not the subject property or any property in the general area is part of a modified delta overlay district.
 - (D) The current and probable future capacities of adjacent and nearby streets based on the city's thoroughfare plan.
 - (E) The availability of public transit and the likelihood of its use.
 - (F) The feasibility of parking mitigation measures and the likelihood of their effectiveness.
- 3) In granting a special exception, the board shall specify the uses to which the special exception applies. A special exception granted by the board for a particular use automatically and immediately terminates if and when that use is changed or discontinued.
- 4) In granting a special exception, the board may:

- (A) Establish a termination date for the special exception or; otherwise provide for the reassessment of conditions after a specified period of time;
 - (B) Impose restrictions on access to or from the subject property; or
 - (C) Impose any other reasonable conditions that would have the effect of improving traffic safety or lessening congestion on the streets.
- 5) The board shall not grant a special exception to reduce the number of off-street parking spaces required in an ordinance granting or amending a specific use permit.
 - 6) The board shall not grant a special exception to reduce the number of off-street parking spaces expressly required in the text or development plan of an ordinance establishing or amending regulations governing a specific planned development district. This prohibition does not apply when:
 - (A) the ordinance does not expressly specify a minimum number of spaces, but instead simply makes references to the existing off-street parking regulations in Chapter 51 or this chapter; or
 - (B) the regulations governing that specific district expressly authorize the board to grant the special exception.

STAFF RECOMMENDATION:

Approval, subject to the following conditions:

1. The special exception of 11 spaces shall automatically and immediately terminate if and when the industrial (inside) use is changed or discontinued.
2. All employee parking must be accommodated on-site.

Rationale:

- Staff concurred with the Sustainable Development Department Assistant Director of Engineering who has no objections to the request with the condition that all employee parking must be accommodated on-site.

BACKGROUND INFORMATION:

Zoning:

Site: PD 621 (Subdistrict 1)
North: PD 621 (Subdistrict 1)
South: PD 621 (Subdistrict 1)
East: PD 621 (Subdistrict 1)
West: PD 621 (Subdistrict 1)

Land Use:

The subject site is developed with an existing approximately 13,500 square foot vacant structure. The areas to the north, south, and west are developed with industrial/warehouse/office uses, and the area to the east is open space.

Zoning/BDA History:

There has not been any recent related board or zoning cases recorded either on or in the immediate vicinity of the subject site.

GENERAL FACTS/STAFF ANALYSIS:

- This request for a special exception to the off-street parking regulations of 11 spaces focuses on obtaining a Certificate of Occupancy/maintaining an existing approximately 13,500 square foot structure with industrial (inside) use (Century Oak Foods), and providing 12 (or 52 percent) of the 23 required off-street parking spaces.
- The property is located in PD 621 that states that unless otherwise provided, off-street parking and loading must be provided in accordance with Division 51A-4.300, "Off-Street Parking and Loading Regulations." The PD states that if several uses are located on a single building site, the off-street parking requirement is the sum of the requirements for each use, and off-street parking spaces for one use may not be counted toward the off-street parking required of another use, except as otherwise provided in this section.
- The PD does not provide a specific off-street parking requirement for the industrial (inside) use proposed on the subject site. Therefore the following Dallas Development Code off-street parking requirement applies:
 - Industrial (inside) use: 1 space per 600 square feet of floor area.
- The Sustainable Development Department Assistant Director of Engineering submitted a review comment sheet indicating that he has no objections to the request as long as all employee parking is provided on-site.
- The applicant has the burden of proof in establishing the following:
 - The parking demand generated by the "industrial (inside) use" use on the site does not warrant the number of off-street parking spaces required, and
 - The special exception of 11 spaces (or a 48 percent reduction of the required off-street parking) would not create a traffic hazard or increase traffic congestion on adjacent and nearby streets.
- If the Board were to grant this request, and impose the condition that the special exception of 11 spaces shall automatically and immediately terminate if and when the industrial (inside) use is changed or discontinued, the applicant would be able to obtain a Certificate of Occupancy/maintain the existing approximately 13,500 square foot structure with industrial (inside) use, and provide 12 (or 52 percent) of the 23 required off-street parking spaces.

Timeline:

April 21, 2017: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

May 9, 2017: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.

May 9, 2017: The Board Administrator emailed the applicant the following information:

- a copy of the application materials including the Building Official's report on the application;
- an attachment that provided the public hearing date and panel that will consider the application; the May 31st deadline to submit additional evidence for staff to factor into their analysis; and the June 9th deadline to submit additional evidence to be incorporated into the Board's docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence."

June 6, 2017: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for June public hearings. Review team members in attendance included: the Sustainable Development and Construction Assistant Director of Engineering, the Board of Adjustment Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, the Sustainable Development and Construction Department Senior Planner, and the Assistant City Attorney to the Board.

June 9, 2017: The Sustainable Development Department Assistant Director of Engineering submitted a review comment sheet marked "Has no objections if certain conditions are met" commenting: "As long as all employee parking is provided on-site".

BOARD OF ADJUSTMENT ACTION JUNE 21, 2017

APPEARING IN FAVOR: Siobahn Omlor, 2006 Farrington St., Dallas, TX
Jeff Wells, 2006 Farrington St., Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION: Cannon

I move that the Board of Adjustment, in Appeal No. **BDA 167-078**, on application of Siobahn Omlor, **grant** the request of this applicant to provide 12 off-street parking spaces to the off-street parking regulations contained in the Dallas Development Code which require 23 off-street parking spaces, because our evaluation of the property use and the testimony shows that this special exception will not increase traffic hazards or increase traffic congestion on adjacent or nearby streets, and the parking demand generated by the use does not warrant the number of required parking spaces. This special exception is granted for an industrial (inside) use only. I further move that the following conditions be imposed to further the purpose and intent of the Dallas Development Code:

- The special exception of 11 spaces shall automatically and immediately terminate if and when the industrial (inside) use is changed or discontinued.

SECONDED: Beikman

AYES: 4 – Carreon, Beikman, Cannon, Sibley
NAYS: 0
MOTION PASSED 4– 0 (unanimously)

FILE NUMBER: BDA167-057(SL)

BUILDING OFFICIAL’S REPORT: Application of Brian East, represented by Audra Buckley, for a variance to the building height regulations at 7333 Valley View Lane. This property is more fully described as Lot 20, Block 10/7497, and is zoned MF-2(A), which limits the maximum building height to 26 feet due to a residential proximity slope. The applicant proposes to construct and maintain a structure with a building height of up to 40 feet, which will require a 14 foot variance to the maximum building height regulations.

LOCATION: 7333 Valley View Lane

APPLICANT: Brian East
Represented by Audra Buckley

REQUEST:

A request for a variance to the height regulations (specifically to the residential proximity slope) of up to 14’ was originally made to maintain and/or construct and maintain 2- 3 story structures to a height of 40’ - a height that exceeds the maximum 26’ in height permitted by the residential proximity slope that begins at the R-7.5(A) single family residentially-zoned property immediately east of the subject site by 14’. However, on June 1st, the applicant’s representative emailed the Board Administrator the following: “Since we’ve already been to a hearing and cannot withdraw, please consider this email as a request for denial without prejudice on this case.” (See Attachment D).

STANDARD FOR A VARIANCE:

The Dallas Development Code Section 51A-3.102(d)(10) specifies that the board has the power to grant variances from the front yard, side yard, rear yard, lot width, lot depth, lot coverage, floor area for structures accessory to single family uses, height, minimum sidewalks, off-street parking or off-street loading, or landscape regulations provided that the variance is:

- (A) not contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done;
- (B) necessary to permit development of a specific parcel of land that differs from other parcels of land by being of such a restrictive area, shape, or slope, that it cannot be developed in a manner commensurate with the development upon other parcels of land with the same zoning; and

(C) not granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing a parcel of land not permitted by this chapter to other parcels of land with the same zoning.

ORIGINAL STAFF RECOMMENDATION (May 17, 2017):

Denial

Rationale:

- Staff had concluded, at the time of the May 2nd staff review team meeting, that the applicant had not substantiated how the variance was necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that it cannot be developed in a manner commensurate with the development upon other parcels of land with the same MF-2(A) zoning district.
- Staff had concluded based on the information the applicant had submitted at the time of the May 2nd staff review team meeting that the characteristics/features of the subject site (which, according to the applicant, has a 15' fall from east to west, and is slightly irregular in shape, and, according to the application, 1.473 acres or approximately 64,000 square feet in area) does not preclude the applicant from developing it with a multifamily development that is commensurate with others in the same zoning district and that complies with all zoning code provisions including height regulations.

REVISED STAFF RECOMMENDATION (June 21, 2017):

Denial without prejudice

Rationale:

- Staff recommends that the variance be denied without prejudice per the June 1st request of the applicant's representative.

BACKGROUND INFORMATION:

Zoning:

- Site: MF-2(A) (Multifamily district)
- North: R-7.5(A) (SUP 66) (Single family residential, Specific Use Permit)
- South: MF-2(A) (Multifamily district)
- East: R-7.5(A) (Single family residential district 7,500 square feet)
- West: PD 143 (Planned Development)

Land Use:

The subject site is in part developed with multifamily structures and in part under development with more multifamily structures. The area to the north is a cemetery; the area to the east is developed with single family uses; the area to the south is developed

with multifamily uses; and the area to the west is a private school (The Covenant School).

Zoning/BDA History:

There has not been any recent related board or zoning cases recorded either on or in the immediate vicinity of the subject site.

GENERAL FACTS /STAFF ANALYSIS:

- The request for a variance to the height regulations (specifically to the residential proximity slope) of up to 14' focused on maintaining and/or constructing and maintaining 2- 3 story structures to a height of 40' - a height that exceeds the maximum 26' in height permitted by the residential proximity slope that begins at the R-7.5(A) single family residentially-zoned property immediately east of the subject site by 14'.
- The maximum height for a structure in a MF-2(A) zoning district is 36', however, any portion of a structure over 26' in height cannot be located above a residential proximity slope.
- In this case, given that the subject site is immediately adjacent to single family residentially-zoned property (R-7.5(A)) to the east), the height of a structure must comply with a 1:3-slope (or 1 foot in height for every 3 foot away from property in an R, R(A), D, D(A), TH, TH(A) residential zoning district). The RPS slope on the subject site begins at the R-7.5(A) zoned property east of the site.
- The applicant has submitted a site plan and elevations that represents a 1:3-slope (or 1 foot in height for every 3 foot away from property in a CH, MF-1, MF-1(A), MF-2, and MF-2(A) residential zoning district) on the structures seeking variance.
- The Building Official's Report states that a variance to the height regulations of 14' is requested since there are structures proposed to reach 40' in height or 14' higher/beyond than the 26' height allowed for the structures as they are located on this subject site.
- According to DCAD records, the "main improvement" at 7333 Valley View Lane is a "townhome" built in 2016 with 7,552 square feet of living/total area; and with "additional improvements" listed as four, 380 square foot attached garages.
- The site is somewhat sloped (according to the applicant, a 15' fall from east to west, irregular in shape, and according to the application is 1.473 acres (or approximately 64,000 square feet) in area. While the site has two front yards, this feature is typical of corner lot that is not zoned single family, duplex, or agricultural.
- The applicant has the burden of proof in establishing the following:
 - That granting the variance to the height regulations will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
 - The variance to height regulations is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner

commensurate with the development upon other parcels of land in districts with the same MF-2(A) zoning classification.

- The variance to height setback regulations would not be granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same MF-2(A) zoning classification.
- If the Board were to grant the request, and impose the submitted site plan and elevations as a condition, the structures in the exceeding the height limit or the RPS would be limited to what is shown on these documents – which, in this case, are structures that would be exceed the height limit/RPS by up to 14’.
- On June 1st, the applicant’s representative emailed the Board Administrator the following: “Since we’ve already been to a hearing and cannot withdraw, please consider this email as a request for denial without prejudice on this case.” (See Attachment D).

Timeline:

February 6, 2017: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

April 11, 2017: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.

- April 12, 2017: The Board Administrator emailed the applicant the following information:
- a copy of the application materials including the Building Official's report on the application;
 - an attachment that provided the public hearing date and panel that will consider the application; the April 26th deadline to submit additional evidence for staff to factor into their analysis; and the May 5th deadline to submit additional evidence to be incorporated into the Board's docket materials;
 - the criteria/standard that the board will use in their decision to approve or deny the request; and
 - the Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence."
- April 26, 2017: The applicant submitted additional documentation on this application to the Board Administrator beyond what was submitted with the original application (see Attachment A).
- May 1, 2017: The applicant submitted additional documentation on this application to the Board Administrator beyond what was submitted with the original application (see Attachment B).
- May 2, 2017: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for May public hearings. Review team members in attendance included: the Director of Sustainable Development and Construction, the Building Official, the Board of Adjustment Chief Planner, the Building Inspection Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, the Sustainable Development and Construction Department Senior Planner, and the Assistant City Attorney to the Board.
- No review comment sheets were submitted in conjunction with this application.
- May 5, 2017: The applicant submitted additional information to staff beyond what was submitted with the original application (see Attachment C). Note that this information was not factored into the staff recommendation since it was submitted after the May 2nd staff review team meeting.
- May 17, 2017: The Board of Adjustment Panel B conducted a public hearing on this application. The Board delayed action on this application until their next public hearing to be held on June 21, 2017.

May 23, 2017: The Board Administrator wrote the applicant's representative a letter of the board's action; the May 31st deadline to submit additional evidence for staff to factor into their analysis; and the June 9th deadline to submit additional evidence to be incorporated into the Board's docket materials.

June 1, 2017: The applicant's representative submitted additional documentation on this application to the Board Administrator beyond what was submitted with the original application and at the May 17th public hearing (see Attachment D).

BOARD OF ADJUSTMENT ACTION MAY 17, 2017

APPEARING IN FAVOR: Jonathan Vinson, 2323 Ross Ave., #600, Dallas, TX
Allison Howell, 7333 Valley View Lane, Dallas, TX
Christopher Merthesue, 7333 Valley View Lane, Dallas, TX
Brady Howell, 7333 Valley View Lane, Dallas, TX

APPEARING IN OPPOSITION: Lawrence Scubus, 13107 Tahoe Dr., Dallas, TX
Thane Hayhurst, 13104 Tahoe Dr., Dallas, TX
Rachel Knol, 13269 Meadowside Dr., Dallas, TX

MOTION: Beikman

I move that the Board of Adjustment, in Appeal No. **BDA 167-057**, hold this matter under advisement until June 21, 2017.

SECONDED: Shouse

AYES: 4 – Hounsel, Beikman, Shouse, Lewis

NAYS: 1 - Carreon,

MOTION PASSED 4 – 1

BOARD OF ADJUSTMENT ACTION JUNE 21, 2017

APPEARING IN FAVOR: Audra Buckley, 416 S. Ervay, Dallas, TX
Christopher McThurman, 76333 Valley View Lane,
Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION #1: Beikman

I move that the Board of Adjustment, in Appeal No. **BDA 167-057**, on application of Brian East, represented by Audra Buckley, **deny** the variance to the building height regulations requested by this applicant **with prejudice**, because our evaluation of the property and the testimony shows that the physical character of this property is such that a literal enforcement of the provisions of the Dallas Development Code, as amended, would not result in unnecessary hardship to this applicant.

SECONDED: No one

*Motion Failed for Lack of a Second.

MOTION #2: Carreon

I move that the Board of Adjustment, in Appeal No. **BDA 167-057**, on application of Brian East, represented by Audra Buckley, **deny** the variance to the building height regulations requested by this applicant **without prejudice**, because our evaluation of the property and the testimony shows that the physical character of this property is such that a literal enforcement of the provisions of the Dallas Development Code, as amended, would not result in unnecessary hardship to this applicant.

SECONDED: Sibley

AYES: 3 – Carreon, Cannon, Sibley

NAYS: 1 – Beikman

MOTION PASSED 3 – 1

FILE NUMBER: BDA167-077(SL)

BUILDING OFFICIAL’S REPORT: Application of Jose Reyes Moreno, represented by Franco Patino, for variances to the front yard setback regulations, side yard setback regulations, off-street parking regulations, and special exceptions to the visual obstruction regulations at 3719 Savage Street. This property is more fully described as part of Lot 19 & part of Lot 20, Block N/2604, and is zoned PD 67 (Tract 3), which requires a front yard setback of 20 feet, a side yard setback of 5 feet, a parking space to be at least 20 feet from the right-of-way line adjacent to a street or alley if the space is located in an enclosed structure and if the space faces upon or can be entered directly from the street or alley, and a 20 foot visibility triangle at a driveway and a 45 foot visibility triangle at a street intersection. The applicant proposes to construct and/or maintain a structure and provide a 10 foot 3 inch front yard setback, which will require a 9 foot 9 inch variance to the front yard setback regulations, and a 0 foot side yard setback, which will require a 5 foot variance to the side yard setback regulations, to locate and maintain parking spaces in an enclosed structure with a setback of 10 feet 3 inches, which will require a variance of 9 feet 9 inches to the off-street parking regulations, and to locate and maintain items in required visibility triangles at driveways and at an intersection, which will require special exceptions to the visual obstruction regulations.

LOCATION: 3719 Savage Street.

APPLICANT: Jose Reyes Moreno
Represented by Franco Patino

REQUESTS:

The following requests are made on a site that is undeveloped:

1. A request for a variance to the front yard setback regulations of 9’ 9” is made to construct and maintain a two-story single family home structure, part of which is to

be located 10' 3" from one of the site's two front property lines (Roper Street) or 9' 9" into this 20' front yard setback.

2. Requests for variances to the side yard setback regulations of up to 5' are made to construct and maintain a two-story single home structure, part of which is to be located in both 5' side yard setbacks as close as on a side property line or as much as 5' into the required 5' side yard setback.
3. A request for a variance to the off-street parking regulations of 9' 9" is made to locate and maintain a parking space in enclosed structure (an attached garage to the single family home structure) located 10' 3" from the Roper Street front property/right-of-way line or 9' 9" into the required 20' distance that parking spaces in enclosed structures must be from this street right-of-way.
4. Requests for special exceptions to the visual obstruction regulations are made to locate and maintain the aforementioned single family home structure:
 - in the 45' visibility triangle at the intersection of Roper Street and Savage Street, and
 - in the two 20' visibility triangles at the driveway into the site from Roper Street.

STANDARD FOR A VARIANCE:

The Dallas Development Code specifies that the board has the power to grant variances from the front yard, side yard, rear yard, lot width, lot depth, lot coverage, floor area for structures accessory to single family uses, height, minimum sidewalks, off-street parking or off-street loading, or landscape regulations provided that the variance is:

- (A) not contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done;
- (B) necessary to permit development of a specific parcel of land that differs from other parcels of land by being of such a restrictive area, shape, or slope, that it cannot be developed in a manner commensurate with the development upon other parcels of land with the same zoning; and
- (C) not granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing a parcel of land not permitted by this chapter to other parcels of land with the same zoning.

STANDARD FOR A SPECIAL EXCEPTION TO THE VISUAL OBSTRUCTION REGULATIONS:

The Board shall grant a special exception to the requirements of the visual obstruction regulations when, in the opinion of the Board, the item will not constitute a traffic hazard.

STAFF RECOMMENDATION (front yard variance):

Denial

- While staff recognized that the flat, approximately 3,100 square foot subject site had two 20' front yard setbacks, and had approximately 2,000 square feet less than that

of other lots in the PD 67 (Tract 3) zoning district, staff concluded that applicant had not substantiated how granting this variance to the front yard setback regulations was not contrary to public interest.

STAFF RECOMMENDATION (side yard variances):

Denial

- While staff recognized that the flat, approximately 3,100 square foot subject site had two 20' front yard setbacks, and had approximately 2,000 square feet less than that of other lots in the PD 67 (Tract 3) zoning district, staff concluded that applicant had not substantiated how granting these variances to the side yard setback regulations were not contrary to public interest.

STAFF RECOMMENDATION (parking variance):

Denial

- While staff recognized that the flat, approximately 3,100 square foot subject site had two 20' front yard setbacks, and had approximately 2,000 square feet less than that of other lots in the PD 67 (Tract 3) zoning district, staff concluded that applicant had not substantiated how granting this variance to the off-street parking regulations was not contrary to public interest. With regard to this particular request, the Sustainable Development Department Assistant Director of Engineering recommends that this request be denied because, if granted, it would create a situation where vehicles in front of the garage would block the sidewalk on Roper Street.

STAFF RECOMMENDATION (visual obstruction special exceptions):

Denial

Rationale:

- While the Sustainable Development Department Assistant Director of Engineering had indicated that he had no objections for the proposed structure to be located in the 45' visibility triangle at the intersection of Roper Street and Savage Street, and in the two 20' visibility triangles at the driveway into the site from Roper Street (i.e. that the structure proposed to be located in these three visibility triangles would not create a traffic hazard), staff is recommending that these requests be denied given that the structure in these three visibility triangles is also located in the 20' Roper Street front yard setback which staff is recommending denial of given that the applicant had substantiated how granting this variance was not contrary to public interest.

BACKGROUND INFORMATION:

Zoning:

Site: PD 67 (Tract 3) (Planned Development)
North: PD 67 (Tract 3) (Planned Development)
South: PD 67 (Tract 3) (Planned Development)
East: R-7.5(A) (Single family residential 7,500 square feet)
West: PD 67 (Tract 3) (Planned Development)

Land Use:

The subject site is undeveloped. The areas to the north, south, and east are developed with single family uses; and the area to the west is undeveloped.

Zoning/BDA History:

There has not been any recent related board or zoning cases recorded either on or in the immediate vicinity of the subject site.

GENERAL FACTS/STAFF ANALYSIS (front yard variance):

- The request for a variance to the front yard setback regulations of 9' 9" focuses on constructing and maintaining a two-story single family home structure with an approximately 1,600 square foot building footprint, which is to be located 10' 3" from one of the site's two front property lines (Roper Street) or 9' 9" into this 20' front yard setback on a site that is undeveloped.
- The property is located in PD 67 (Tract III) which states the following:
 - Land use must remain as indicated on the "Existing Land Use" map with single-family uses and other permitted uses regulated by the requirements of the Single-Family Dwelling District 5,000 Square Feet and with duplex uses and other permitted uses regulated by the requirements of the Duplex Dwelling District and with the development of vacant property and the redevelopment of property governed by the provisions of Section 51P-67.110 below.
- The "Existing Land Use" map in the PD ordinance shows the land use of the site and the other parcels land on the north side of Savage Street between Tyree Street and Roper Street to be "Single Family."
- The required front yard setback for the subject site is 20'.
- The subject site is located at the northwest corner of Savage Street and Roper Street.
- Given the PD single family and duplex residential zoning and location of the corner lot subject site, it has two 20' front yard setbacks – a front yard setback along Savage Street (the shorter of the two frontages of the subject site which is always a front yard in this case) and a front yard setback along Roper Street, (the longer of the two frontages which is typically considered a side yard where on this zoned property where a 5' side yard setback is required). However, the site has a front yard setback along Roper Street in order to maintain continuity of the established front yard setback along this street frontage where properties to the north of the subject site "front" on Roper Street.
- The submitted revised site plan represents that the proposed structure is located 10' 3" from the Roper Street front property line or 9' 9" into this 20' front yard setback.

(The submitted revised site plan shows the proposed home in compliance with the required front yard setback on Savage Street).

- According to DCAD records, there is no main or additional improvement listed for property addressed at 3719 Savage Street.
- The subject site is flat, rectangular in shape (approximately 100' x 31'), and according to the submitted application is 0.071 acres (or approximately 3,100 square feet) in area. The site is zoned PD 67 (Tract 3) where before the creation of this PD in 1976, the site was zoned R-5 where lots are typically 5,000 square feet in area.
- Most lots in the PD 67 (Tract 3) zoning district have one 20' front yard setback, two 5' side yard setbacks, and one 5' rear yard setback; this site has two 20' front yard setbacks and two 5' side yard setbacks.
- Since the proposed home is to be located 10' 3" from the Roper Street property line, no variance to setback regulations would be required if the frontage of this street were a side yard.
- The approximately 31' wide subject site has 6' of width left for development once a 20' front yard setback is accounted for on the east and a 5' side yard setback is accounted for on the west. If this lot were more typically with one front yard, two side yards, and one rear yard, the lot would have 21' of width left for development.
- The applicant has the burden of proof in establishing the following:
 - That granting the variance to the front yard setback regulations will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
 - The variance is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same PD 67 (Tract III) zoning classification.
 - The variance would not be granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same PD 67 (Tract III) zoning classification.
- If the Board were to grant the variance request, and impose the submitted revised site plan as a condition, the structure in the front yard setback would be limited to what is shown on this document— which in this case is a structure that would be located 10' 3" from the site's Roper Street front property line (or 9' 3" into this Roper Street 20' front yard setback).

GENERAL FACTS/STAFF ANALYSIS (side yard variances):

- The requests for variance to the side yard setback regulations of up to 5' focuses on constructing and maintaining a two-story single family home structure with an approximately 1,600 square foot building footprint, which is to be located as close on one of the site's two side property lines or as much as 5' into the 5' required side yard setback on a site that is undeveloped.
- The property is located in PD 67 (Tract III) which states the following:

- Land use must remain as indicated on the "Existing Land Use" map with single-family uses and other permitted uses regulated by the requirements of the Single-Family Dwelling District 5,000 Square Feet and with duplex uses and other permitted uses regulated by the requirements of the Duplex Dwelling District and with the development of vacant property and the redevelopment of property governed by the provisions of Section 51P-67.110 below.
- The "Existing Land Use" map in the PD ordinance shows the land use of the site and the other parcels land on the north side of Savage Street between Tyree Street and Roper Street to be "Single Family."
- The required side yard setback for the subject site is 5'.
- The subject site is located at the northwest corner of Savage Street and Roper Street.
- Given the PD single family and duplex residential zoning and location of the corner lot subject site, it has two 20' front yard setbacks – a front yard setback along Savage Street (the shorter of the two frontages of the subject site which is always a front yard in this case) and a front yard setback along Roper Street, (the longer of the two frontages which is typically considered a side yard where on this zoned property where a 5' side yard setback is required). However, the site has a front yard setback along Roper Street in order to maintain continuity of the established front yard setback along this street frontage where properties to the north of the subject site "front" on Roper Street.
- The submitted revised site plan represents that the proposed structure is located on the western side property line (or 5' into this 5' required side yard setback) and 3' 6" from the northern side property line (or 1' 6" into this 5' required side yard setback).
- According to DCAD records, there is no main or additional improvement listed for property addressed at 3719 Savage Street.
- The subject site is flat, rectangular in shape (approximately 100' x 31'), and according to the submitted application is 0.071 acres (or approximately 3,100 square feet) in area. The site is zoned PD 67 (Tract 3) where before the creation of this PD in 1976, the site was zoned R-5 where lots are typically 5,000 square feet in area.
- Most lots in the PD 67 (Tract 3) zoning district have one 20' front yard setback, two 5' side yard setbacks, and one 5' rear yard setback; this site has two 20' front yard setbacks and two 5' side yard setbacks.
- The approximately 31' wide subject site has 6' of width left for development once a 20' front yard setback is accounted for on the east and a 5' side yard setback is accounted for on the west. If this lot were more typically with one front yard, two side yards, and one rear yard, the lot would have 21' of width left for development.
- The applicant has the burden of proof in establishing the following:
 - That granting the variances to the side yard setback regulations will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
 - The variances are necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with

the development upon other parcels of land in districts with the same PD 67 (Tract III) zoning classification.

- The variances would not be granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same PD 67 (Tract III) zoning classification.
- If the Board were to grant the side yard variance requests, and impose the submitted revised site plan as a condition, the structure in the side yard setbacks would be limited to what is shown on this document– which in this case is a structure that would be located as close on one of the site’s two side property lines (or as much as 5’ into the 5’ required side yard setback).

GENERAL FACTS/STAFF ANALYSIS (parking variance):

- The request for a variance to the off-street parking regulations of 9’ 9” focuses on locating and maintaining parking spaces in an enclosed structure (an attached garage to the single family home structure) located 10’ 3” from the Roper Street front property/right-of-way line or 9’ 9” into the required 20’ distance that parking spaces in enclosed structures must be from this street right-of-way.
- The Dallas Development Code states that a parking space must be at least 20 feet from the right-of-way line adjacent to a street or alley if the space is located in enclosed structure and if the space faces upon or can be entered directly from a street or alley.
- The submitted revised site plan denotes a “garage” located 10’ 3” from the Roper Street right-of-way line or approximately 18’ from the Roper Street pavement line.
- According to DCAD records, there is no main or additional improvement listed for property addressed at 3719 Savage Street.
- The subject site is flat, rectangular in shape (approximately 100’ x 31’), and according to the submitted application is 0.071 acres (or approximately 3,100 square feet) in area. The site is zoned PD 67 (Tract 3) where before the creation of this PD in 1976, the site was zoned R-5 where lots are typically 5,000 square feet in area.
- Most lots in the PD 67 (Tract 3) zoning district have one 20’ front yard setback, two 5’ side yard setbacks, and one 5’ rear yard setback; this site has two 20’ front yard setbacks and two 5’ side yard setbacks.
- The approximately 31’ wide subject site has 6’ of width left for development once a 20’ front yard setback is accounted for on the east and a 5’ side yard setback is accounted for on the west. If this lot were more typically with one front yard, two side yards, and one rear yard, the lot would have 21’ of width left for development.
- The Sustainable Development Department Assistant Director of Engineering submitted review comment sheets along with a photo (see Attachment A). The review comment sheet for the parking variance request was marked “Recommends that this be denied” with the following additional comment: “Cars in front of garage will block sidewalk”.
- The applicant has the burden of proof in establishing the following:

- That granting the variance to the off-street parking regulations will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
- The variance is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same PD 67 (Tract 3) zoning classification.
- The variance would not be granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same PD 67 (Tract 3) zoning classification.
- If the Board were to grant the variance request, staff recommends imposing the following conditions:
 1. Compliance with the submitted revised site plan is required.
 2. An automatic garage door must be installed and maintained in working order at all times.
 3. At no time may the area in front of the garage be utilized for parking of vehicles. (These conditions are imposed to help assure that the variance will not be contrary to the public interest).

GENERAL FACTS/STAFF ANALYSIS (visual obstruction special exceptions):

- The requests for special exceptions to the visual obstruction regulations focus on locating and maintaining a single family home structure that is proposed to be located in the 45' visibility triangle at the intersection of Roper Street and Savage Street, and in the two 20' visibility triangles at the driveway into the site from Roper Street.
- The Dallas Development Code states the following: A person shall not erect, place, or maintain a structure, berm, plant life or any other item on a lot if the item is:
 - in a visibility triangle as defined in the Code (45-foot visibility triangles at street intersections, and 20 foot visibility triangles at drive approaches and at alleys on properties zoned single family); and
 - between two and a half and eight feet in height measured from the top of the adjacent street curb (or the grade of the portion on the street adjacent to the visibility triangle).
- The submitted revised site plan represents that a portion of the proposed single family home is located in the 45' visibility triangle at the intersection of Roper Street and Savage Street, and in the two, 20' visibility triangles at the driveway into the site from Roper Street.
- The Sustainable Development Department Assistant Director of Engineering submitted review comment sheets along with a photo (see Attachment C). The review comment sheet for the visual obstruction special exception request was marked "Has no objections".

- The applicant has the burden of proof in establishing how granting these requests for special exceptions to the visual obstruction regulations does not constitute a traffic hazard.
- Granting these requests with a condition imposed that the applicant complies with the submitted revised site plan would limit the items located in the 45' visibility triangle at the intersection of Roper Street and Savage Street, and in the two 20' visibility triangles at the driveway into the site from Roper Street to that what is shown on these documents – a single family home.

Timeline:

- April 21, 2017: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.
- May 9, 2017: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.
- May 9, 2017: The Board Administrator emailed the applicant’s representative the following information:
- an attachment that provided the public hearing date and panel that will consider the application; the May 31st deadline to submit additional evidence for staff to factor into their analysis; and the June 9th deadline to submit additional evidence to be incorporated into the Board’s docket materials;
 - the criteria/standard that the board will use in their decision to approve or deny the request; and
 - the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.
- May 31, 2017: The applicant submitted additional documentation on this application to the Board Administrator beyond what was submitted with the original application (see Attachment A).
- May 31, 2017: The Building Inspection Senior Plans Examiner/Development Code Specialist forwarded a revised Building Official’s report to the Board Administrator (see Attachment B).
- June 6, 2017: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for June public hearings. Review team members in attendance included: the Sustainable Development and Construction Assistant Director of Engineering, the Board of Adjustment Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, the Sustainable Development and Construction Department Senior Planner, and the Assistant City Attorney to the Board.
- June 9, 2017: The Sustainable Development Department Assistant Director of Engineering submitted review comment sheets along with a photo

(see Attachment C). The review comment sheet for the visual obstruction special exception request was marked "Has no objections". The review comment sheet for the parking variance request was marked "Recommends that this be denied" with the following additional comment: "Cars in front of garage will block sidewalk".

BOARD OF ADJUSTMENT ACTION JUNE 21, 2017

APPEARING IN FAVOR: Franco Patino, 4020 McArthur, Irving, TX
Jose Moreno, 1839 Cortez, Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION #1: Sibley

I move that the Board of Adjustment, in Appeal No. **BDA 167-077**, on application of Jose Moreno, represented by Franco Patino, **deny** the variance to the front yard setback regulations requested by this applicant **with prejudice**, because our evaluation of the property and the testimony shows that the physical character of this property is such that a literal enforcement of the provisions of the Dallas Development Code, as amended, would not result in unnecessary hardship to this applicant.

SECONDED: Cannon

AYES: 4 – Carreon, Beikman, Cannon, Sibley

NAYS: 0

MOTION PASSED 4– 0 (unanimously)

MOTION #2: Sibley

I move that the Board of Adjustment, in Appeal No. **BDA 167-077**, on application of Jose Moreno, represented by Franco Patino, **deny** the off-street parking variance requested by this applicant **with prejudice**, because our evaluation of the property and the testimony shows that the physical character of this property is such that a literal enforcement of the provisions of the Dallas Development Code, as amended, would not result in unnecessary hardship to this applicant.

SECONDED: Cannon

AYES: 3 – Beikman, Cannon, Sibley

NAYS: 0 - Carreon

MOTION PASSED 3 – 1

MOTION #3: Sibley

I move that the Board of Adjustment, in Appeal No. **BDA 167-077**, on application of Jose Moreno, represented by Franco Patino, **deny** the special exceptions to locate and maintain items in the required visibility triangles **with prejudice**, because our evaluation of the property and the testimony shows that granting the application would constitute a traffic hazard.

SECONDED: Cannon

AYES: 4 – Carreon, Beikman, Cannon, Sibley

NAYS: 0
MOTION PASSED 4– 0 (unanimously)

MOTION #4: Sibley

I move that the Board of Adjustment, in Appeal No. **BDA 167-077**, on application of Jose Moreno, represented by Franco Patino, **deny** the variances to the side yard setback regulations requested by this applicant **with prejudice**, because our evaluation of the property and the testimony shows that the physical character of this property is such that a literal enforcement of the provisions of the Dallas Development Code, as amended, would not result in unnecessary hardship to this applicant.

SECONDED: Cannon
AYES: 4 – Carreon, Beikman, Cannon, Sibley
NAYS: 0
MOTION PASSED 4– 0 (unanimously)

MOTION: Beikman

I move to adjourn this meeting.

SECONDED: Cannon
AYES: 4 – Carreon, Beikman, Cannon, Sibley
NAYS: 0
MOTION PASSED 4 – 0 (unanimously)

1:49 P.M. Board Meeting adjourned for **June 21, 2017**

CHAIRPERSON

BOARD ADMINISTRATOR

BOARD SECRETARY

Note: For detailed information on testimony, refer to the tape retained on file in the Department of Planning and Development.